

required to be served independently from any shareholders and officers.

3. The allegations contained within the Motion for Default revolve around the identical nucleus of operative facts that will be contested in a jury trial this fall.
4. The Defendants will enter an answer to the Complaint once a copy is received from Counsel for Plaintiff.

Argument and Authority

5. Defendants' response to the Motion for Default Judgment focuses on two legal principles, first, the lack of jurisdiction, and second, the general disdain for default judgments.
6. Generally, federal courts disfavor default judgment as a "harsh" sanction. Because the courts favor resolution of disputes based on the merits, default judgment ordinarily is available only where a party's failure to respond has thwarted the adversarial process. *See Smith v. Phamm*, 2008 U.S. Dist. LEXIS 47177, *5-6, 2008 WL 2474596.
7. In this matter, Defendants' failure to file an answer is not intentional, nor is it intended to prejudice the Plaintiff. Undersigned Counsel will file an Original Answer to the Complaint once a copy is received and then proceed to investigate and work with Counsel for Plaintiff to resolve any claims made.

WHEREFORE, PREMISES CONSIDERED, Defendants respectfully pray that the Court deny the Motion for Default Judgment and allow Defendants to file an Answer to Plaintiff's Complaint.

Respectfully submitted,

Law Office of Gabriel S. Perez, PLLC
718 Myrtle Avenue
El Paso, Texas 79901
(915) 444-5351
(505) 671-3836

By: /s/ Gabriel S. Perez
Gabriel S. Perez
gabriel@gabrielperezlaw.com
NM State Bar No. 138288
TX State Bar No. 24063580
Attorney for Defendants

CERTIFICATE OF SERVICE

I certify that I electronically transmitted the attached document to the Clerk's Office using the CM/ECF system for filing and service to all CM/ECF registrants.

/s/ Gabriel S. Perez
Gabriel S. Perez
Attorney for Defendants

EXHIBIT A

REGISTER OF ACTIONS**CASE No. 2020DCV2997****Albert Flores VS Keyvan Parsa, MD and Montoya Park Place, Inc.**§
§
§
§
§
§Case Type: **Other Contract**Date Filed: **09/16/2020**Location: **327th District Court****RELATED CASE INFORMATION****Related Cases**

2021DCV3555 (Related Case)

PARTY INFORMATION

Counter Defendant	Fidelity National Title Insurance Company	Lead Attorneys J.Manuel Torre-Rodriguez <i>Retained</i> 972-281-0422(W)
Counter Plaintiff	Flores, Albert	E.P. BUD KIRK <i>Retained</i> 915-584-3773(W)
Defendant	Flores, Albert	E.P. BUD KIRK <i>Retained</i> 915-584-3773(W)
Defendant	Jordan, Deborah	RICHARD ROMAN <i>Retained</i> 915-351-2679(W)
Defendant	Montoya Park Place, Inc.	MANNIE KALMAN <i>Retained</i> 915-542-1916(W)
Defendant	Parsa, Keyvan, MD	
Intervenor	Fidelity National Title Insurance Company	J.Manuel Torre-Rodriguez <i>Retained</i> 972-281-0422(W)
Plaintiff	Flores, Albert	E.P. BUD KIRK <i>Retained</i> 915-584-3773(W)

EVENTS & ORDERS OF THE COURT

DISPOSITIONS	
09/16/2021	Order Granted (Judicial Officer: Spieczny, Tom) Comment (ORDER GRANTING WESTSTAR TITLE, LLC MOTION TO SEVER / SIGNED 09.16.21 / KMM)
11/22/2021	Notice of Removal (Judicial Officer: Spieczny, Tom) Comment (FEDERAL CASE #21-30633-HCM-11 / JA)
04/20/2022	Order for Non-Suit (Judicial Officer: Spieczny, Tom) Comment (CROSS-CLAIMS AGAINST WESTSTAR TITILE LLC WITH PREJUDICE/ SIGNED 04.20.22/ CR)

OTHER EVENTS AND HEARINGS	
09/16/2020	Original Petition (OCA) Index # 1
09/16/2020	E-File Event Original Filing
09/18/2020	Request Index # 2
09/22/2020	Affidavit Index # 3
09/24/2020	Citation
	Parsa, Keyvan, MD

Served

10/01/2020

		Response Received	10/01/2020
		Returned	10/06/2020

09/25/2020 **Motion for Appointment of Attorney Ad Litem** Index # 4

10/01/2020 **Answer** Index # 6

10/05/2020 **Motion to Dismiss** Index # 7

10/15/2020 **Amended Petition** Index # 8

10/16/2020 **Response** Index # 9

11/23/2020 **Amended Petition** Index # 10

11/25/2020 **Motion for Temporary Restraining Order** Index # 11

12/01/2020 **Notice of Hearing** Index # 12

12/02/2020 **Motion for Continuance** Index # 13

12/02/2020 **Motion to Withdraw** Index # 14

12/03/2020 **Temporary Restraining Order Hearing** (3:30 PM) (Judicial Officer Chew, Linda)

12/03/2020 **Order Setting Hearing** Index # 15

12/11/2020 **Motion for Temporary Restraining Order** Index # 16

12/14/2020 **Temporary Restraining Order Hearing** (10:30 AM) (Judicial Officer Chew, Linda)

12/15/2020 **Motion for Substitute Counsel** Index # 17

12/21/2020 **Entry of Appearance** Index # 18

12/22/2020 **Amended** Index # 19

01/04/2021 **Order for Substitute Service** Index # 20

01/04/2021 **Temporary Restraining Order** Index # 21

01/06/2021 **Notice of Hearing** Index # 22

01/06/2021 **Petition in Intervention** Index # 28

01/11/2021 **Order of Assignment**

01/14/2021 **Answer** Index # 23

01/14/2021 **Response** Index # 24

01/15/2021 **Temporary Restraining Order Hearing** (10:00 AM) (Judicial Officer Chew, Linda)

01/22/2021 **Petition in Intervention** Index # 25

01/27/2021 **Order for Temporary Injunction** Index # 27

01/29/2021 **Request** Index # 26

02/01/2021 **Citation**

Jordan, Deborah

Served 02/03/2021

Response Received 04/05/2021

Returned 02/04/2021

02/03/2021 **Answer** Index # 29

02/04/2021 **Answer** Index # 31

02/08/2021 **Counter Petition** Index # 32

02/16/2021 **Answer** Index # 33

02/22/2021 **Letter** Index # 34

03/18/2021 **Notice of Hearing** Index # 35

04/05/2021 **Entry of Appearance** Index # 36

04/05/2021 **General Denial** Index # 37

04/12/2021 **Motion for Continuance** Index # 38

04/12/2021 **Objection** Index # 39

04/15/2021 **Order Setting Hearing** Index # 40

04/16/2021 **Status Hearing** (2:00 PM) (Judicial Officer Chew, Linda)

04/15/2021 *Reset by Court to 04/16/2021*

04/20/2021 **Motion to Quash** Index # 41

04/21/2021 **Motion to Compel** Index # 42

04/22/2021 **CANCELED Status Conference** (1:30 PM) (Judicial Officer Chew, Linda)

Court Coordinator Discretionary Cancellation

04/26/2021 **Order to Compel** Index # 44

04/26/2021 **Response** Index # 43

04/28/2021 **Motion to Reconsider** Index # 45

05/05/2021 **Notice of Hearing** Index # 47

05/10/2021 **Notice of Hearing** Index # 46

05/18/2021 **Status Hearing** (11:00 AM) (Judicial Officer Chew, Linda)

05/18/2021 **Motion to Reconsider Hearing** (11:00 AM) (Judicial Officer Chew, Linda)

05/18/2021 **Order Setting Non-Jury Trial** Index # 48

05/27/2021 **Entry of Appearance** Index # 49

05/27/2021 **Motion to Withdraw** Index # 50

05/28/2021 **Motion to Reconsider** Index # 51

06/03/2021 **Response** Index # 52

06/04/2021 **Notice of Appearance** Index # 53

06/07/2021 **Motion for Contempt** Index # 54

06/15/2021 **Objection** Index # 55

06/22/2021 **Order Permitting Withdrawal of Counsel** Index # 56

06/23/2021 **Notice of Hearing** Index # 57

06/23/2021 **Notice of Hearing** Index # 58

06/23/2021 **Order Granting** Index # 59

06/24/2021 **Amended Notice** Index # 60

06/28/2021 **Certificate of Written Discovery** Index # 61

07/05/2021 **Response** Index # 62

07/08/2021 **Motion Hearing** (2:00 PM) (Judicial Officer Chew, Linda)

07/08/2021 **Reply** Index # 63

07/08/2021 **Reply** Index # 64

07/13/2021 **Order Setting Hearing** Index # 65

07/14/2021 **Judge's Conference** (3:30 PM) (Judicial Officer Chew, Linda)

07/14/2021 **Notice of Filing** Index # 66

07/15/2021 **Order Setting Hearing** Index # 67

07/16/2021 **Intervention** Index # 68

07/16/2021 **Motion to Vacate** Index # 69

07/27/2021 **Amended Petition** Index # 70

07/28/2021 **Response** Index # 71
 08/06/2021 **Amended Petition** Index # 72
 08/06/2021 **Jury Demand** Index # 73
 08/10/2021 **Motion to Compel** Index # 74
 08/12/2021 **Amended Notice** Index # 75
 08/19/2021 **Amended Petition** Index # 76
 08/20/2021 **Response** Index # 77
 08/23/2021 **Suggestion of Bankruptcy (OCA)** Index # 78
 08/24/2021 **Pre-Trial Hearing** (10:00 AM) (Judicial Officer Chew, Linda)
 09/21/2021 *Reset by Court to 08/24/2021*
 08/24/2021 **Order Setting Hearing** Index # 79
 09/01/2021 **Motion Hearing** (4:00 PM) (Judicial Officer Chew, Linda)
 09/01/2021 **Order Setting Hearing** Index # 80
 09/09/2021 **Motion for Severance** Index # 81
 09/10/2021 **Motion for Protective Order** Index # 82
 09/10/2021 **Notice of Hearing** Index # 83
 09/10/2021 **Certificate of Written Discovery** Index # 84
 09/13/2021 **Response** Index # 85
 09/13/2021 **Motion for Severance** Index # 86
 09/14/2021 **Statement** Index # 87
 09/15/2021 **Motion Hearing** (10:30 AM) (Judicial Officer Chew, Linda)
 09/16/2021 **Notice Lifting Stay** Index # 90
 09/17/2021 **Motion for Contempt** Index # 89
 09/20/2021 **Notice of Judgment Sent**
 09/20/2021 **Notice of Judgment Sent**
 09/20/2021 **Notice of Judgment Sent**
 09/20/2021 **Notice of Judgment Sent**
 09/20/2021 **Notice of Judgment Sent**
 09/20/2021 **Order Setting Hearing** Index # 91
 09/20/2021 **Notice of Hearing** Index # 92
 09/20/2021 **Objection** Index # 93
 09/20/2021 **Notice of Hearing** Index # 94
 09/22/2021 **Notice** Index # 95
 09/22/2021 **Motion for Continuance** Index # 96
 09/22/2021 **Motion to Withdraw** Index # 97
 09/23/2021 **Contempt Hearing** (1:30 PM) (Judicial Officer Chew, Linda)
 Result: Appeared
 09/23/2021 **Order Setting Hearing** Index # 98
 09/24/2021 **Entry of Appearance** Index # 99
 09/24/2021 **Returned Mail** Index # 103
 09/27/2021 **Response** Index # 100
 09/27/2021 **Response** Index # 101
 09/28/2021 **Contempt Hearing** (3:30 PM) (Judicial Officer Chew, Linda)
 09/28/2021 **Order Permitting Withdrawal of Counsel** Index # 102
 10/13/2021 **Returned Mail** Index # 106
 10/14/2021 **Order for Contempt** Index # 104
 10/15/2021 **Motion to Withdraw** Index # 105
 10/19/2021 **CANCELED Bench Trial** (10:00 AM) (Judicial Officer Chew, Linda)
 Court Coordinator Discretionary Cancellation
 10/21/2021 **Motion to Withdraw Attorney** (10:30 AM) (Judicial Officer Chew, Linda)
 10/26/2021 **Order Permitting Withdrawal of Counsel** Index # 107
 10/26/2021 **Order Setting Hearing** Index # 108
 11/01/2021 **Motion Hearing** (11:00 AM) (Judicial Officer Chew, Linda)
 11/29/2021 **Suggestion** Index # 110
 11/30/2021 **Order Remanding (OCA)** Index # 111
 01/27/2022 **Answer** Index # 112
 02/25/2022 **Motion for Summary Judgment** Index # 113
 03/03/2022 **Notice of Hearing** Index # 114
 03/04/2022 **Amended Petition** Index # 115
 03/07/2022 **Answer** Index # 116
 03/10/2022 **Motion for Contempt** Index # 117
 03/11/2022 **Motion for Continuance** Index # 118
 03/30/2022 **Notice of Appearance** Index # 119
 03/30/2022 **Order Setting Hearing** Index # 120
 04/05/2022 **CANCELED Motion for Summary Judgment** (2:00 PM) (Judicial Officer Chew, Linda)
 Cancelled Pending Reset
 04/11/2022 **Motion for Non Suit** Index # 121
 04/12/2022 **Notice of Assignment** Index # 122
 04/29/2022 **Motion to Strike** Index # 123
 05/09/2022 **Notice of Withdrawal** Index # 124
 05/10/2022 **Notice of Hearing** Index # 125
 05/10/2022 **Response to Summary Judgment** Index # 126
 05/10/2022 **Response to Summary Judgment** Index # 127
 05/17/2022 **Motion for Summary Judgment** (3:30 PM) (Judicial Officer Chew, Linda)
 05/17/2022 **Motion Hearing** (3:30 PM) (Judicial Officer Chew, Linda)
 05/17/2022 **Motion to Withdraw** Index # 128
 05/17/2022 **Order Setting Hearing** Index # 129
 05/23/2022 **Order Denying Summary Judgment** Index # 132
 05/24/2022 **Status Hearing** (11:00 AM) (Judicial Officer Chew, Linda)
 05/24/2022 **Motion to Withdraw Attorney** (11:00 AM) (Judicial Officer Chew, Linda)
 05/24/2022 **Order Setting Hearing** Index # 130
 05/24/2022 **Order Setting Jury Trial** Index # 131

05/25/2022	Order Permitting Withdrawl of Counsel	Index # 133
05/31/2022	Motion to Strike	Index # 134
06/03/2022	Supplement	Index # 135
06/16/2022	Motion Hearing (2:00 PM) (Judicial Officer Chew, Linda)	
10/31/2022	Pre-Trial Hearing (9:30 AM) (Judicial Officer Chew, Linda)	
11/01/2022	Jury Trial (9:00 AM) (Judicial Officer Chew, Linda)	